



**City of Seattle**

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**Department of Planning and Development**  
D. M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR  
OF THE DEPARTMENT OF PLANNING & DEVELOPMENT**

**Project Number:** 3010855  
**Applicants:** Julian Weber, for Dwell Development, LLC  
**Address:** 5237 39<sup>th</sup> Avenue S

**SUMMARY OF PROPOSED ACTION**

Land Use Application to allow five single family structures in an environmentally critical area. The existing single family residence is to be demolished. Parking for two vehicles will be provided within attached garages with surface parking provided for three vehicles.\*

The following Master Use Permit component is required:

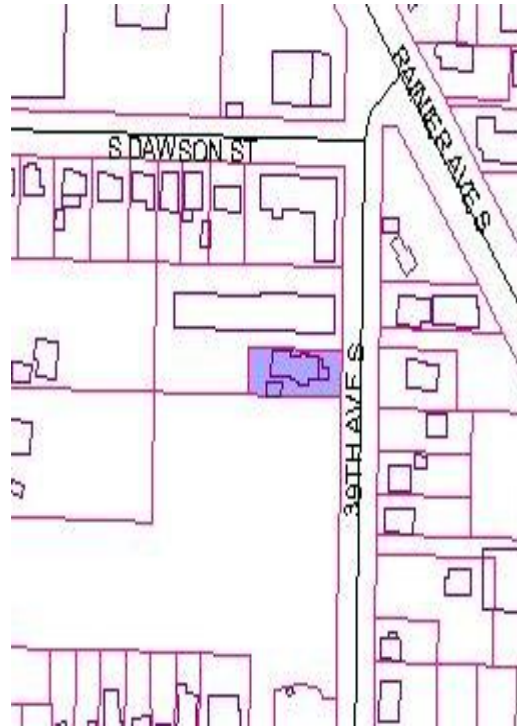
**SEPA-Threshold Determination** (Chapter 25.05 SMC).

**SEPA DETERMINATION:** ☐ Exempt ☐ DNS ☐ MDNS ☐ EIS  
☒ DNS with conditions  
☐ DNS involving non-exempt grading or demolition or  
involving another agency with jurisdiction.

\*The project was originally noticed to allow two duplexes and two single-family residences (6 units total) in an environmentally critical area. Access requirements dictated consolidation of the earlier proposed units into five single-family residences.

### **SITE BACKGROUND INFORMATION:**

The development site sits at the toe of a large steep sloped area located to the south and west and a smaller steep slope area at the eastern edge of the site. The property is zoned L-2, as is the lot directly across 39<sup>th</sup> Avenue South and lots to the north and those extending along South Dawson Street nearly to 37<sup>th</sup> Avenue South. Lots to the northeast of the site, between 39<sup>th</sup> Avenue South and Rainier Avenue South are zoned Neighborhood Commercial 2 with a 40-foot height limit. The large steep-slope and heavily wooded area south of the site and to the west is zoned Single Family 5000 and is under the control of the City of Seattle Parks and Recreation Department. The site and general vicinity are included within the South east Seattle Reinvestment Area (SESRA).



### **Project Proposal**

The development proposal as it now stands is to construct five single-family structures, two with garages attached on a 8,250 square foot lot in an L-2 zone. The structures would be arrayed on either side of a central driveway, with the two structures that include garages as part of the residences along the south property line with three residential structures along the north property line. Surface parking for three vehicles to serve the three north units will be provided at the northwest corner of the lot.

Vehicular access from 39<sup>th</sup> Avenue S. serving the existing single family structure on site had been provided indirectly to the lot across property belonging to the Parks Department. Assuming continued access from this approach, the project was designed with six units on site, two as single-family structures and four units within duplexes. An application to this effect was submitted to the Department of Planning and Development on November 18, 2009. When the Parks Department was unwilling to provide an easement across its property to provide access to the site as had been the situation previously, the development team was required to provide access directly to the lot from 39<sup>th</sup> Avenue S. A revised plan, providing for a total of five units contained in five detached single-family structures was submitted to the department on July 15, 2010.

The applicant filed a request for an Environmentally Critical Areas Exemption in August, 2009. DPD concluded that the steep slope on the eastern area of the site qualifies for the criteria established in the Critical Areas Regulations (SMC 23.09.180 B2b). DPD also granted a steep slope buffer reduction for areas of steep slope abutting the southwestern and western property lines. The steep slope development standards in SMC 25.09.180 B1 were waived for the

development. For this reason an ECA Steep Slope Area Variance was determined not to be required for the project at the subject site. The project is still subject to all other ECA submittal, general, and landslide-hazard and development standards. The proposal plans have subsequently undergone ECA and Parks Department review and have been approved.

### **Public Comment**

The Department received two phone inquiries during the SEPA public comment period, each one referring to existing access to the site across Seattle Parks and Recreation Department's property and inquiring about continued access to the site.

### **ANALYSIS - STATE ENVIRONMENTAL POLICY ACT (SEPA)**

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant (dated November 18, 2009). The information in the checklist, the supplemental information submitted by the applicant and the experience of the lead agency with the review of similar projects form the basis for this analysis and decision. This decision also makes reference to and incorporates the project plans submitted with the project application.

The Seattle SEPA Ordinance provides substantive authority to require mitigation of adverse impacts resulting from a proposed project (SMC 25.05.655 and 25.06.660). Mitigation, when required, must be related to specific environmental impacts identified in an environmental document and may be imposed to the extent that an impact is attributable to the proposal, and only to the extent the mitigation is reasonable and capable of being accomplished. Additionally, mitigation may be required when based on policies, plans and regulations as enunciated in SMC 25.05.665 to SMC 25.05.675 inclusive (SEPA Overview Policy, SEPA Cumulative Impacts Policy, SEPA Specific Environmental Policies). In some instances, local, state or federal regulatory requirements will provide sufficient mitigation of an impact and additional mitigation imposed through SEPA may be limited or unnecessary.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states in pertinent part that "where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation." Under specific circumstances, mitigation may be required even when the Overview Policy is applicable. SMC 25.05.665(D).

### **ENVIRONMENTAL IMPACTS**

The information provided by the applicant and its consultants, the public comments received, and the experience of DPD with the review of similar proposals form the basis for conditioning the project. The potential environmental impacts disclosed by the environmental checklist are discussed below. Where necessary, mitigation is called for under Seattle's SEPA Ordinance (SMC 25.05).

### Short - Term Impacts

Anticipated short-term impacts that could occur during demolition excavation and construction include; increased noise from construction/demolition activities and equipment; decreased air quality due to suspended particulates from building activities and hydrocarbon emissions from construction vehicles and equipment; increased dust caused by construction activities; potential soil erosion and potential disturbance to subsurface soils during grading, excavation, and general site work; increased traffic and demand for parking from construction equipment and personnel; conflicts with normal pedestrian and vehicular movement adjacent to the site; increased noise; and consumption of renewable and non-renewable resources. Due to the temporary nature and limited scope of these impacts, they are not considered significant (SMC 25.05.794).

Many of these impacts are mitigated or partially mitigated by compliance to existing codes and ordinances; specifically these are: Storm-water, Grading and Drainage Control Code (grading, site excavation and soil erosion); Street Use Ordinance (watering streets to suppress dust, removal of debris, and obstruction of the pedestrian right-of-way); the Building Code (construction measures in general); and the Noise Ordinance (construction noise). The Department finds, however, that certain construction-related impacts may not be adequately mitigated by existing ordinances. Further discussion is set forth below.

### Earth

It is not anticipated that perched groundwater will be encountered during the minor amount of excavation required for the project; any construction dewatering can be handled with ditching and sumps within the excavation. The Seattle Stormwater Grading and Drainage Control Code requires that water released from the site be clean and limits the amount of suspended particles therein. Specifically, the ordinance provides for Best Management Practices to be in place to prevent any of the water or spoil resulting from excavation or grading to leave the site. No SEPA policy based conditioning of earth impacts during construction is necessary.

### Noise-Related Impacts

Both commercial and residential uses in the vicinity of the proposal will experience increased noise impacts during the different phases of construction. Compliance with the Noise Ordinance (SMC 22.08) is required and will limit the use of loud equipment registering 60 dBA or more at the receiving property line or 50 feet to the hours between 7:00 a.m. and 10:00 p.m. on weekdays, and between 9:00 a.m. and 10:00 p.m. on weekends and holidays.

Although compliance with the Noise Ordinance is required, additional measures to mitigate the anticipated noise impacts may be necessary because of nearby residential uses. The SEPA Policies at SMC 25.05.675.B and 25.05.665 allow the Director to require additional mitigating measures to further address adverse noise impacts during construction. Pursuant to these policies, it is Department's conclusion that limiting hours of construction beyond the requirements of the Noise Ordinance is appropriate due to the proximity of the development site to established residential uses. As a condition of approval, therefore, the proponent will be required to limit the hours of construction activity not conducted entirely within an enclosed structure to non-holiday weekdays between 7:00 a.m. and 7:00 p.m. and on Saturdays between 9:00 a.m. and 6:00 p.m.

### Air Quality Impacts

Demolition and construction activities could result in the following temporary or construction-related adverse impacts:

- Erosion from excavation and storm water impacts from ground clearing,
- Increased noise levels,
- Decreased air quality due to suspended particulates (dust) from excavation and construction, hydrocarbon emissions and greenhouse gas emissions from construction vehicles, equipment, and the manufacture of the construction materials.

Construction will create dust, leading to an increase in the level of suspended air particulates, which could be carried by wind out of the construction area. Compliance with the Street Use Ordinance (SMC 15.22.060) will require the contractors to prevent water the site or use other dust palliative, as necessary, to reduce airborne dust. In addition, compliance with the Puget Sound Clean Air Agency regulations will require activities, which produce airborne materials or other pollutant elements to be contained with temporary enclosure. Other potential sources of dust would be soil blowing from uncovered dump trucks and soil carried out of the construction area by vehicle frames and tires; this soil could be deposited on adjacent streets and become airborne. The Street Use Ordinance also requires the use of tarps to cover the excavation material while in transit, and the clean up of adjacent roadways and sidewalks periodically. Construction traffic and equipment are likely to produce carbon monoxide and other exhaust fumes. Regarding asbestos, Federal Law requires the filing of a Notice of Construction with the Puget Sound Clean Air Agency (“PSCAA”) prior to any demolition on site. If any asbestos is present on the site, PSCAA, the Department of Labor and Industry, and EPA regulations will provide for the safe removal and disposal of asbestos.

Construction activities themselves will generate minimal direct impacts. However the indirect impact of construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials themselves result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this project. No potential short term adverse impact to air is anticipated and therefore air quality mitigation is not necessary.

### Long-term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including: increased carbon dioxide and other greenhouse gas emissions primarily from increased vehicle trips but also the projects energy consumption, increased demand for public services and utilities; increased height, bulk, and scale on the site; and increased area traffic and demand for parking. Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the City Energy Code which will require insulation for outside walls and energy efficient windows; and the Land Use Code which controls site coverage, setbacks, building height and use, parking requirements, shielding of light and glare reduction, and contains other development and use regulations to assure compatible development.

### Earth

The applicant filed a request for an Environmentally Critical Areas Exemption in August, 2009. DPD concluded that the steep slope on the eastern area of the site qualifies for the criteria established in the Critical Areas Regulations (SMC 23.09.180 B2b). DPD also granted a steep slope buffer reduction for areas of steep slope abutting the southwestern and western property lines. The steep slope development standards in SMC 25.09.180 B1 were waived for the development. For this reason an ECA Steep Slope Area Variance was determined not to be required for the project at the subject site. The project is still subject to all other ECA submittal, general, and landslide-hazard and development standards. The proposal plans have subsequently undergone ECA and Parks Department review and have been approved. No further conditioning under SEPA authority is warranted.

### Air Quality

The number of vehicular trips associated with the project will increase the quantities of carbon dioxide and other greenhouse gas emissions in the area. Additionally, the project will create a level of electrical energy demand and natural gas consumption that does not currently exist on the site. Together these changes will result in ambient increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this project.

### Greenhouse Gas Emissions

Operational activities, primarily vehicular trips associated with the project and the project's energy consumption, are expected to result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant.

### Height, Bulk, and Scale

The proposal does not exceed the height of development allowed in the Lowrise 2 zone.

### Transportation

The proposed projects would increase traffic in the area insignificantly. The project trips would add miniscule delays to the area intersections. No off-site transportation mitigation is required to accommodate the development.

### Parking Impacts

The proposed supply of 5 parking spaces meets the minimum required by Code. No other SEPA conditioning of parking impacts will be imposed.

## **DECISION - SEPA**

This decision was made after review by the responsible official on behalf of DPD as the lead agency of the completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).

## **SEPA CONDITIONS**

Based upon the above analysis, the Director has determined that the following conditions are reasonable and shall be imposed pursuant to SEPA and SMC Chapter 25.05 (Environmental Policies and Procedures).

The owner(s) and/or responsible party(s) shall:

### **During Construction**

1. The following condition(s) to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction:

The hours of construction activity not conducted entirely within an enclosed structure shall be limited to non-holiday weekdays between 7:00 a.m. and 7:00 p.m. and on Saturdays between 9:00 a.m. and 6:00 p.m. unless this restriction is modified on a case by case basis.

Signature: \_\_\_\_\_ (Signature on file) Date: August 26, 2010  
Michael Dorcy, Senior Land Use Planner  
Department of Planning and Development  
Land Use Services

MD:bg

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